

DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”), is effective as of _____, 2024 (the “Effective Date”), and is entered into by and among HAYS CONSOLIDATED INDEPENDENT SCHOOL DISTRICT, an independent school district and political subdivision created under the laws of the State of Texas (“HCISD”); CLAYTON PROPERTIES GROUP, INC., a Tennessee corporation doing business in Texas as Brohn Homes (“Developer”), and CASSETTA RANCH RESIDENTIAL COMMUNITY, INC., a Texas nonprofit corporation (the “Association”). HCISD, Developer, and the Association are herein collectively referred to as the “Parties” and individually as a “Party”.

RECITALS:

A. HCISD owns a tract of land consisting of approximately 53.577 acres, as described in Exhibit A, attached hereto and incorporated by reference (the “School Tract”);

B. The Parties desire to cooperate with each other in connection with the development of drainage improvements for the non-exclusive benefit of the School Tract; and

C. The Parties are entering into this Agreement to evidence their agreement related to the construction and maintenance obligations related to drainage improvements as further described below, all pursuant to and in accordance with the terms and conditions set forth in this Agreement.

AGREEMENTS:

NOW, THEREFORE, in consideration of the premises, the mutual covenants and obligations in, and the mutual benefits to be derived from, this Agreement, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Development.

a. HCISD and Developer hereby agree to the development and construction of a drainage channel and related appurtenances (collectively, the “Facilities”), as further described in Exhibit B, attached hereto and incorporated herein by reference (the “Approved Plans”), to be located within the area described in that Drainage Easement dated June 12, 2020, and recorded under File No. 20023440, Official Public Records of Hays County, Texas, as further described in Exhibit C, attached hereto and incorporated herein by reference (the “Drainage Easement”) subject to the terms, conditions and reimbursement provisions set forth below.

b. Developer will construct, or cause to be constructed, the Facilities in material conformity with the Approved Plans and as otherwise required by the public authorities having jurisdiction thereof, including, without limitation, any applicable municipal utility district.

c. Any material deviation from the Approved Plans must be submitted to HCISD for final approval prior to the commencement of construction, which approval shall not be unreasonably denied, delayed, conditioned or withheld. Furthermore, the plans and specifications

for the Facilities shall comply with the requirements of the authorities having jurisdiction thereof.

d. Any work to be performed pursuant to this Agreement shall be performed expeditiously, in a good and workmanlike manner, and in accordance with all applicable laws, rules and regulations, as well as codes, statutes, rules, permits and regulations of all authorities having jurisdiction thereof.

e. Any and all contractors utilized in the design and construction of the Facilities shall maintain commercial general liability insurance with limits not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, which policies shall name Developer and HCISD as additional insureds. Developer shall provide evidence of such insurance upon request by the HCISD.

2. Right of Entry. HCISD hereby grants to Developer the right to enter upon School Tract, if entry is reasonably necessary, but only for the purposes of performing any and all necessary actions to achieve the design and construction of the Facilities, including, without limitation, a staging area. The entry rights hereby granted are temporary and shall automatically terminate when the construction of the Facilities is complete, and Developer has notified HCISD of such completion.

3. Cost Allocations and Escrow of Funds.

a. HCISD and Developer hereby agree that the actual costs associated with the design, permitting, and construction of the Facilities shall be shared equally between the Parties (the "Costs of Construction"). Within five (5) business days of the Effective Date hereof, HCISD and Developer shall each deposit an amount equal to 50% of \$133,317.75 (the "Estimated Cost") into an escrow account to be held by Independence Title Company (the "Escrow Agent").

b. Simultaneously with the execution of this Agreement, HCISD, Developer, and the Escrow Agent shall enter into an escrow agreement substantially in the form attached hereto as Exhibit D (the "Escrow Agreement") setting forth the manner in which Developer may request draws from the Escrow Agent as reimbursement for the Costs of Construction.

4. Conveyance of and Maintenance of Facilities. Upon completion of construction of the Facilities, Developer shall cause title to the Facilities to be conveyed to the Association, and the Association shall be responsible for the ongoing maintenance thereof. Notwithstanding the foregoing, Developer or the Association may convey to the applicable public authorities or community association, fee simple title to Facilities, provided that maintenance thereof shall be assumed by such third party assignee.

5. Easements. Following final payment by HCISD to Developer for its share of the Costs of Construction (including to the extent exceeding the Estimated Cost), Developer shall grant to HCISD, or cause to be granted to HCISD, a perpetual, non-exclusive assignment of the Drainage Easement for the purposes of (i) providing storm water drainage and outfall discharge in, over, under, across such area; and (ii) permitting the use of the Facilities by HCISD to drain the School Tract.

6. Additional Matters.

a. Dirt. All soil removed from the Drainage Easement in connection with the construction of the Facilities shall be the property of Developer. The Parties agree that Developer may use such soil in connection with the grading of certain other nearby real property.

b. Sidewalk. Developer and HCISD may construct a sidewalk within their respective Tract. Developer and HCISD each hereby agrees to reasonably coordinate with the other (or its designees) to ensure connectivity between the sidewalks in each of the respective Tracts.

c. Fencing. HCISD agrees to the substitution of a wooden privacy fence for the masonry fence required to be built by Developer along the boundary line of the School Tract, and further agrees to use commercially reasonable efforts to assist in Developer's request for approval of such substitution by any applicable governmental authority, including by executing instruments, agreements, or applications as may be reasonably requested by Developer, all at no out-of-pocket cost to HCISD.

7. Indemnification. Each Party (the "Indemnifying Party") agrees, to the extent permitted by law, to defend, indemnify and hold the other Party (the "Indemnified Party") harmless from and against any and all damages, losses, claims, demands, liabilities, costs and expenses arising out of or in connection with any and all claims against the Indemnified Party for bodily injury, death and/or property damage, arising out of or in connection with the Indemnifying Party's construction activities (or the construction activities of its agents, representatives, contractors, etc.).

8. Default and Remedies. In the event that a Party fails to perform its obligations set forth under this Agreement (the "Defaulting Party"), the other Parties (each, a "Non-Defaulting Party") shall (i) have the right, after providing the Defaulting Party with thirty (30) days' prior written notice to cure such failure (or, if there is an Emergency, then such notice as is reasonably practical under the circumstances), to perform the required obligations and be reimbursed by the Defaulting Party for the actual cost incurred by the Non-Defaulting Party for performing or causing to be performed such obligation of the Defaulting Party; and (ii) such Non-Defaulting Party shall have the right to pursue any other remedy it may have at law or in equity, including, without limitation, injunctive relief and/or the right to seek and recover its damages arising from such failure, unless the Defaulting Party has, before the expiration of such thirty (30) day period, cured the default or commenced to cure the default and is in good faith diligently pursuing and continuing such efforts to cure the default. As used herein, the term "Emergency" shall mean a circumstance that, if not promptly abated, is reasonably likely to result in bodily injury or death or property damage, the cost of which to repair exceeds Ten Thousand Dollars (\$10,000.00). If the Non-Defaulting Party performs an obligation on behalf of the Defaulting Party pursuant to the terms of this paragraph above, the Defaulting Party shall, within thirty (30) days after receiving an invoice from such Non-Defaulting Party (along with reasonable supporting documentation), reimburse the Non-Defaulting Party an amount equal to the actual cost of the Non-Defaulting Party's expenditure related to the performance of such obligation of the Defaulting Party. Without limiting the foregoing, in the event that escrowed funds are available under the Escrow Agreement described above, such reimbursement shall be made from such

escrowed funds.

9. Binding Effect. The terms of this Agreement and the provisions hereof shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

10. Construction and Interpretation.

a. This Agreement and the exhibits hereto contains all the representations and the entire agreement between the Parties with respect to the subject matter hereof. Any prior negotiations, correspondence, memoranda or agreements are superseded in total by this Agreement and exhibits hereto. This Agreement has been fully negotiated at arms length between the signatories hereto, and after advice by counsel and other representatives chosen by such signatories, and such signatories are fully informed with respect thereto.

b. Whenever required by the context of this Agreement, (i) the singular shall include the plural, and vice versa, and the masculine shall include the feminine and neuter genders, and vice versa and (ii) use of the words “including”, “such as”, or words of similar import, when following any general term, statement or matter shall not be construed to limit such statement, term or matter to specific items, whether or not language of non- limitation, such as “without limitations”, or “but not limited to”, are used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest scope of such statement, terms or matter.

c. The captions preceding the text of each article and section are included only for convenience of reference. Capitalized terms are also selected only for convenience of reference and do not necessarily have any connection to the meaning that might otherwise be attached to such term in a context outside of this Agreement.

d. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person by judgment or court order shall in no way affect any of the other provisions hereof or the application thereof to any other person and the same shall remain in full force and effect.

e. This Agreement may be amended or terminated by, and only by, a written agreement signed by the Parties, or their respective successors in interest, if applicable. No consent to the amendment of this Agreement shall ever be required of person other than the Parties, nor shall any person other than the Parties have any right to enforce any of the provisions hereof.

f. This Agreement may be executed in several counterparts, each of which shall be deemed an original. The signatures to this Agreement may be executed on separate pages, and when attached to this Agreement shall constitute one complete document.

11. Negation of Partnership. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the Parties in their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint

enterprise.

12. Not a Public Dedication. No right, privileges or immunities of any Party hereto shall inure to the benefit of any third-party person, nor shall any third-party person be deemed to be a beneficiary of any of the provisions contained herein.

13. No Waiver. The failure of any Party to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that Party may have hereunder, at law or in equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions. No waiver by any Party of any default under this Agreement shall be effective or binding on such Party unless made in writing by such Party and no such waiver shall be implied from any omission by a Party to take action in respect to such default. No express written waiver of any default shall affect any other default or cover any other period of time other than any default and/or period of time specified in such express waiver. One or more written waivers or any default under any provision of this Agreement shall not be deemed to be a waiver of any subsequent default in the performance or the same provision or any other term or provision contained in this Agreement.

14. Notices. Requirements for notices under this Agreement will be met when a notice has been reduced to writing and (i) personally delivered, (ii) delivered by reputable commercial overnight delivery service, (iii) delivered by email transmission with evidence of transmission, if confirmed by delivery, mail or overnight delivery service as described in subsections (i), (ii) or (iv), or (iv) sent certified United States mail, postage prepaid, return receipt requested to the below parties at the following addresses:

HCISD:

Hays Consolidated Independent School District
1003 Interstate 35 Frontage Road
Kyle, TX 78640-4745
Attn: Max Cleaver
Email: Max.Cleaver@hayscisd.net

With a copy to:

Rogers, Morris & Grover, LLP

Attn: Mariana Evans
5718 Westheimer Rd.
Suite 1200
Houston, Texas 77057
Email: mevans@rmgllp.com

DEVELOPER:

Clayton Properties Group, Inc., dba Brohn Homes
Attn: Adam B. Boenig
6720 Vaught Ranch Road, Suite 200

Austin, Texas 78730
Email: adamb@brohnhomes.com

With a copy to:

Armbrust & Brown, PLLC
100 Congress Avenue, Suite 1300
Austin, Texas 78701
Attn: Kevin M. Flahive
Email: kflahive@abaustin.com

THE ASSOCIATION:

Casetta Ranch Residential Community, L.L.C.
c/o Preferred Association Management Company
P.O. Box 200145
Austin, Texas 78720
Attn: Douglas J. Plas
Email: _____

With a copy to:

Armbrust & Brown, PLLC
100 Congress Avenue, Suite 1300
Austin, Texas 78701
Attn: Kevin M. Flahive
Email: kflahive@abaustin.com

The date of receipt shall be the date of actual receipt of such notice if the notice is personally delivered, the date of delivery to a reputable commercial overnight delivery service with instructions for next business-day delivery, the date sent if sent by email transmission (provided that any email transmission sent on a non-business day or after 5:00 p.m. on a business day shall be deemed received on the next business day), or if sent by certified mail, the earlier of actual receipt or 3 days after the postmark date. Addresses given herein for notice may be changed by any party by notification in writing at least 10 days prior to the effective date thereof.

15. No Other Rights Created. No provision of this Agreement shall constitute or be construed as a dedication of any interest described this Agreement to the public or give any member of the public any right whatsoever, it being the intention of the Parties that this Agreement shall be strictly limited to and for the purpose herein expressed.

16. No Recordation. No Party shall record this Agreement in the public records without the written consent of the other Parties, which consent may be withheld or granted in such other Parties' sole discretion.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Executed to be effective on the Effective Date.

HCISD:

HAYS CONSOLIDATED INDEPENDENT
SCHOOL DISTRICT, an independent school
district and political subdivision created under the
laws of the State of Texas

By: _____
Name: _____
Title: _____

DEVELOPER:

CLAYTON PROPERTIES GROUP, INC., a
Tennessee corporation doing business in Texas as
BROHN HOMES

By: _____

Name: _____

Title: _____

THE ASSOCIATION:

CASSETTA RANCH RESIDENTIAL
COMMUNITY, INC., a Texas nonprofit
corporation

By: _____

Name: _____

Title: _____

EXHIBIT A

LEGAL DESCRIPTION OF THE SCHOOL TRACT

That certain property situated in the County of Hays, State of Texas, more particularly described as follows:

Lot 1, Block A, LEHMAN HIGH SCHOOL SUBDIVISION, according to the map or plat thereof, recorded in Volume 12, Page 324, Plat Records, Hays County, Texas.

EXHIBIT B

DESCRIPTION OF FACILITIES

CONSTRUCTION PLANS FOR: CASSETTA RANCH SECTION 5 STREETS, DRAINAGE, WATER & WASTEWATER IMPROVEMENTS



SUMMARY NOTES

OWNER: CLAYTON PROPERTIES GROUP INC.
826 BROOK HOMES
876 VAUGHN RANCH ROAD
SUITE 800 ALUSTON, TX 75026
(817) 334-0775

DEVELOPER: CLAYTON PROPERTIES GROUP INC.
826 BROOK HOMES
876 VAUGHN RANCH ROAD
SUITE 800 ALUSTON, TX 75026
(817) 334-0775

ENGINEER: BGE, INC. TYPE F-004
121 W. LLOYD HENRIK BLVD. SUITE 400
AUSTIN, TEXAS 78758
(817) 878-9000

GENERAL NOTES:

1. THE DEVELOPMENT OF THE PROPERTY SHALL BE REVIEWED AND APPROVED IN ACCORDANCE WITH THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF KYLE, TEXAS AND CLAYTON PROPERTIES GROUP, INC. DOWNS BUSINESS AS BROOK HOMES. EFFECTIVE AUGUST 15, 2018 RECORDED UNDER DOC. NUMBER 18037618 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS. (THE "DEVELOPMENT AGREEMENT") TOGETHER WITH ALL AMENDMENTS THERETO, AND SHALL GOVERN THE REVIEW AND APPROVAL OF ALL PRELIMINARY PLANS, SUBDIVISION PLATS, SUBDIVISION CONSTRUCTION PLANS AND OTHER APPROVALS WITH RESPECT TO THE PROPERTY. THIS SUBDIVISION IS LOCATED WITHIN THE FLOOD CREEK WATERSHED.
2. NO PORTION OF THIS SUBDIVISION IS WITHIN THE EDWARDS AQUIFER RECHARGE OR CONTRIBUTING ZONE.
3. THIS SUBDIVISION AS SHOWN HEREON LIES WITHIN ZONE "C" (AS LIES DETERMINED TO BE OUTSIDE THE 5% ANNUAL CHANCE FLOODPLAIN) AS DETERMINED BY FEDERAL EMERGENCY MANAGEMENT PLAN/NATIONAL FLOOD INSURANCE PROGRAM AS SHOWN ON HAYCO, INCORPORATED, DATED SEPTEMBER 2, 2008, FOR HAYS COUNTY, TEXAS AND INCORPORATED AREAS.
4. WATER AND WASTEWATER SERVICE WILL BE PROVIDED BY THE CITY OF KYLE. RELEASE OF THIS APPLICATION DOES NOT CONSTITUTE A VERIFICATION OF ALL DATA, INFORMATION, AND CALCULATIONS SUPPLIED BY THE APPLICANT. THE ENGINEER OF RECORD IS SOLELY RESPONSIBLE FOR THE COMPLETENESS, ACCURACY, AND ADEQUACY OF INSUR SUBMITTAL, WHETHER OR NOT THE APPLICATION IS REVIEWED FOR CODE COMPLIANCE BY CITY ENGINEERS.

VICINITY MAP:
1" = 200'



Sheet List Table

Sheet Number	Sheet Title
1	COVER
2	GENERAL NOTES
3	FINAL PLAN (SHEET 1 OF 5)
4	FINAL PLAN (SHEET 2 OF 5)
5	SECTION 5 SECONDARY/STORM CONTROL PLAN
6	TROTTLE FLUME STA 1+60 TO 1+80
7	TROTTLE FLUME STA 2+00 TO 2+80
8	WINDING CREEK ROAD STA 0+00 TO 0+40
9	WINDING CREEK ROAD STA 0+40 TO 0+80
10	UNSTABLE ROAD 1+00 TO 1+80
11	CHIFFLE CREEK COUNTRY STA 1+00 TO 1+80
12	ALLEY A STA 1+00 TO 1+80
13	ALLEY C STA 1+00 TO 1+80
14	CHAMBERLAIN STA 2+00 TO 2+40
15	CHAMBERLAIN STA 2+40 TO 2+80
16	CHAMBERLAIN STA 2+80 TO 3+00
17	SEWERAGE AND STORMING PLAN
18	SEWERAGE PLAN
19	LOT GRADING DETAILS
20	EXISTING HYDROLOGY
21	PROPOSED HYDROLOGY
22	RAI 1 (DRAINAGE) 100' SWP
23	DRAINAGE CALCULATIONS (SHEET 1 OF 2)
24	DRAINAGE CALCULATIONS (SHEET 2 OF 2)
25	STORM A STA 1+00 TO 1+40
26	STORM B STA 1+40 TO 1+80
27	STORM C STA 1+80 TO 2+00
28	STORM D STA 2+00 TO 2+40
29	STORM E STA 2+40 TO 2+80
30	STORM F STA 2+80 TO 3+00
31	STORM D
32	STORM SEWER LATERALS
33	DEFINITION FORM
34	OVERALL WATER DISTRIBUTION PLAN
35	OVERALL WASTEWATER COLLECTION PLAN
36	WASTEWATER LINE A STA 1+00 TO 1+40
37	WASTEWATER LINE A STA 1+40 TO 1+80
38	WASTEWATER LINE A STA 1+80 TO 2+00
39	WASTEWATER LINE C & WASTEWATER LINE D
40	WASTEWATER LINE E & WASTEWATER LINE F
41	WASTEWATER LINE G STA 1+00 TO 1+80
42	SECTION CONTROL DETAILS
43	STREET DETAILS (SHEET 1 OF 4)
44	STREET DETAILS (SHEET 2 OF 4)
45	STREET DETAILS (SHEET 3 OF 4)
46	STREET DETAILS (SHEET 4 OF 4)
47	DRAINAGE DETAILS (SHEET 1 OF 2)
48	DRAINAGE DETAILS (SHEET 2 OF 2)
49	CHAMBERLAIN DETAILS (SHEET 1 OF 2)
50	CITY OF KYLE WATER DETAILS
51	CITY OF KYLE WASTEWATER DETAILS
52	ADDITIONAL WATER & WASTEWATER DETAILS

REVIEWED BY:

John Baele 9/30/22

CITY ENGINEER DATE
CITY OF KYLE, TEXAS

Angela Miller 9-21-22

DEPUTY CITY ENGINEER DATE
CITY OF KYLE, TEXAS

Bill Williams, Interim Director of Planning 9/30/22

PLANNING DEPARTMENT DATE

PERMITS:

DEVELOPMENT PERMIT NO. _____

REVISIONS/CORRECTIONS					
SHEET/LOT	DESCRIPTION	DATE	PREPARED BY (ADD/REV/VOID) SHEET NO.'S	ACCEPTED BY	APPROVAL DATE

SUBMITTED BY:

J. Adam Berry
J. ADAM BERRY, P.E.
BGE, INC. TYPE NO. F-004



08/08/2022
DATE



BGE, INC.
100 W. LLOYD HENRIK BLVD. SUITE 400
AUSTIN, TX 78758
817-878-9000 www.bgeinc.com
1996 Registration No. 01-004



THE LOCATION OF EXISTING UNDERGROUND UTILITIES HAS SHOWN IN AN APPROXIMATE MANNER ONLY. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL UTILITIES BEFORE CONSTRUCTING WORK. HE IS RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MAY BE OCCURRED BY HIS FAILURE TO EXACTLY LOCATE AND PRESERVE AIR, AND ALL UNDERGROUND UTILITIES.

EXHIBIT C

LOCATION OF DRAINAGE EASEMENT

DESCRIPTION OF EASEMENT TRACT



www.payne-llc.com
727.215.1019/4433

DRAINAGE EASEMENT

A DESCRIPTION OF 2.533 ACRES OUT OF THE JOHN JONES SURVEY, ABSTRACT NO. 263, IN HAYS COUNTY TEXAS, BEING A PORTION OF A CALLED 83.3633 ACRE TRACT OF LAND CONVEYED TO JANSEN EQUIPMENT, INC. IN VOLUME 4335, PAGE 867 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (OPRHCT), AND BEING A PORTION OF A CALLED 105.744 ACRE TRACT OF LAND CONVEYED TO THEODORE H. LEHMAN AND HAZEL L. LEHMAN IN VOLUME 195, PAGE 93 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS (DRHCT); SAID 2.533 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BE GINNING at a 1/2-inch iron rod found within said 83.3633 acre tract, at an angle point in the southwest line of Lot 1, Block A, Lehman High School Subdivision, a subdivision recorded in Volume 12, Page 324 of the Plat Records of Hays County, Texas (PRHCT), for the northeast corner hereof, from which a 1/2-inch iron rod with "Chaparral" cap found for an angle point in the south line of said Lot 1 bears S75°00'47"E, a distance of 883.03 feet;

THENCE, crossing said 105.744 acre tract and said 83.3633 acre tract, the following five (5) courses and distances:

- 1) S17°14'42"W, a distance of 919.34 feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 2) With a curve to the left, having a radius of 461.85 feet, a delta angle of 27°35'18", an arc length of 122.39 feet, and a chord which bears S06°42'07"E, a distance of 220.24 feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 3) S36°14'04"E, a distance of 156.71 feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 4) S20°40'58"E, a distance of 286.73 feet to a 1/2-inch iron rod with "Payne 6064" cap set;
- 5) S02°21'48"E, a distance of 117.39 feet to a 1/2-inch iron rod with "Payne 6064" cap set in the southeast line of said 105.744 acre tract, same being the northwest line of a called 342.14 acre tract of land conveyed to Walton Texas, LP in Volume 4399, Page 768 (OPRHCT), from which a 1/2-inch iron rod found for the west corner of a called 97.646 acre tract of land conveyed to Clayton Properties Group, Inc., a Tennessee Corporation doing business in Texas as Broda Homes, in Document No. 19010347 (OPRHCT), same being the westerly north corner of said 342.14 acre tract, bears N43°57'38"E, a distance of feet 1235.00;

THENCE, with the southeast line of said 105.744 acre tract, being the northwest line of said 342.14 acre tract, S43°57'38"W, a distance of 83.05 to a calculated point for the southernmost corner hereof;

THENCE, crossing said 105.744 acre tract, the following five (7) courses and distances:

- 1) N02°21'48"W, a distance of 165.05 feet to a calculated point;
- 2) N20°40'58"W, a distance of 268.83 feet to a calculated point;
- 3) N36°14'04"W, a distance of 156.54 feet to a calculated point;

- 4) With a curve to the right having a radius of 521.43 feet, a delta angle of $29^{\circ}08'58''$, an arc length of 265.28 feet, and a chord which bears $N06^{\circ}52'10''W$, a distance of 262.43 feet to a calculated point;
- 5) $N17^{\circ}14'42''E$, a distance of 893.84 feet to a calculated point;
- 6) $N36^{\circ}42'55''W$, a distance of 74.20 feet to a calculated point;
- 7) $N17^{\circ}14'42''E$, a distance of 74.43 feet to a calculated point in the northeast line of said 105.744 acre tract, same being the southwest line of said Lot 1, from which a 1/2-inch iron rod with "Chaparral" cap found for the west corner of said Lot 1 bears $N36^{\circ}42'55''W$, a distance of 869.05 feet;

THENCE, with the northeast line of said 105.744 acre tract, being the southwest line of said Lot 1, $S36^{\circ}42'55''E$, a distance of 148.41 the **POINT OF BEGINNING** hereof, and containing 2.533 acres, more or less.

Surveyed on the ground May 22, 2020. Bearing Basis: The Texas Coordinate System of 1983 (NAD83), South Central Zone, based on GPS solutions from SmartNet. Attachments: drawing 1890-001-DE

6/9/20

Eric J. Dannheim, RPLS
State of Texas #6075



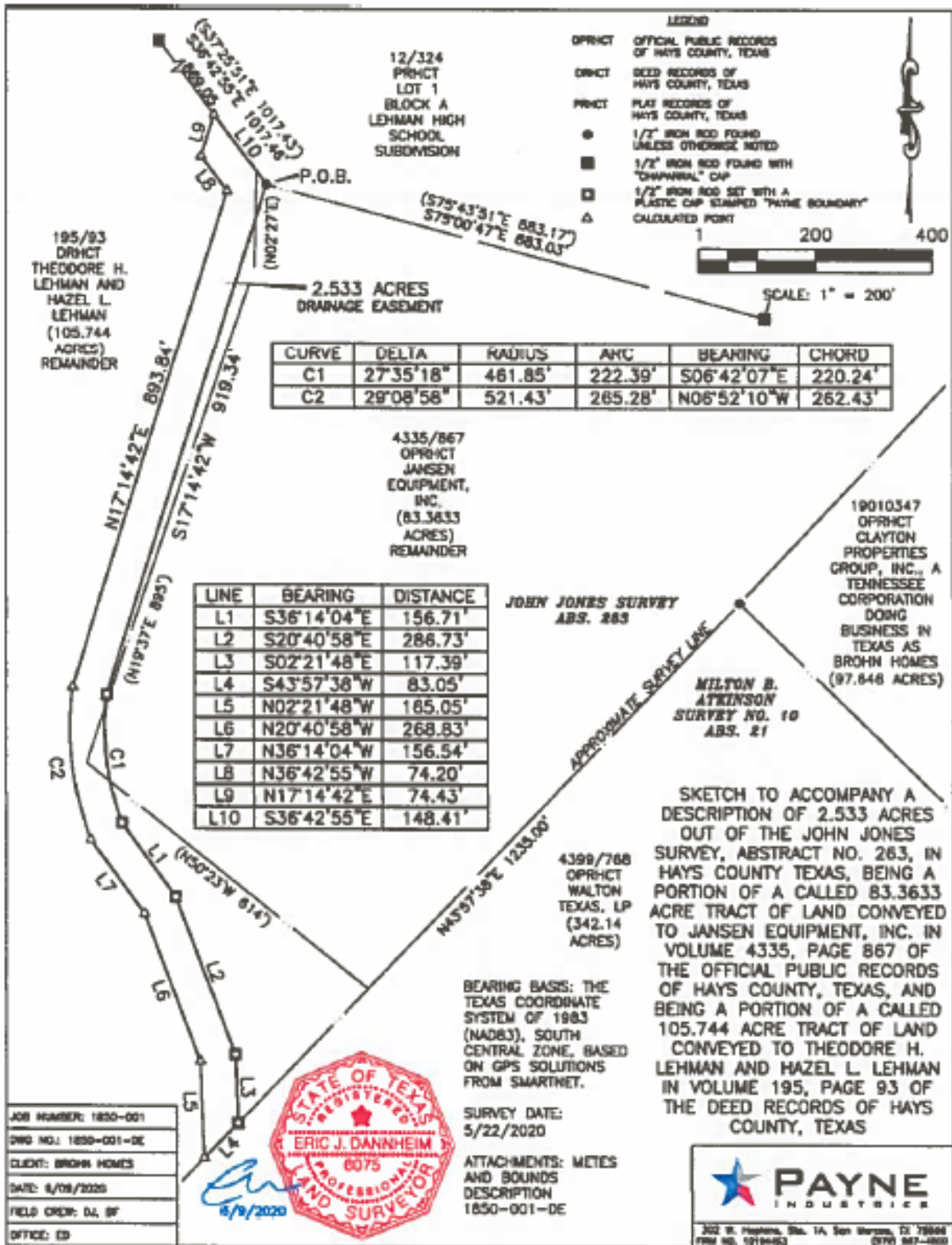


EXHIBIT D

ESCROW AGREEMENT FORM

DRAINAGE FACILITY ESCROW AGREEMENT

This Drainage Facility Escrow Agreement (this “Agreement”), is effective as of _____, 2024 (the “Effective Date”), and is entered into by and among HAYS CONSOLIDATED INDEPENDENT SCHOOL DISTRICT, an independent school district and political subdivision created under the laws of the State of Texas (“**HCISD**”), CLAYTON PROPERTIES GROUP, INC., a Tennessee corporation doing business in Texas as BROHN HOMES (“**Developer**”), and INDEPENDENCE TITLE COMPANY, a Texas corporation (“**Escrow Agent**”).

Recitals:

A. HCISD and Developer are parties to that certain Development Agreement dated _____, 2024 (the “**Development Agreement**”), which sets out certain agreements between HCISD, Developer, and Casetta Ranch Residential Community, Inc., a Texas nonprofit corporation, with respect to, among other things, the construction of the Facilities (as such term is defined in the Development Agreement) for the benefit of certain real property owned by HCISD and located in Hays County, Texas.

B. Pursuant to the Development Agreement, HCISD and Developer have each agreed to escrow fifty percent (50%) of the Estimated Cost (as such term is defined in the Development Agreement) to be disbursed to Developer as reimbursement for the Costs of Construction (as such term is defined in the Development Agreement). The Estimated Cost is \$133,317.75.

NOW THEREFORE, for and in consideration of the mutual promises and covenants set forth herein, Developer, HCISD and Escrow Agent agree as follows:

Article 1

Administering Escrow; Definitions; Recitals

1.1 Defined Terms; Recitals. Capitalized terms used in this Agreement and not otherwise defined herein will have the meanings set forth in the Development Agreement. The Recitals set forth above are true and correct and are incorporated into this Agreement by this reference.

1.2 Escrow Agent. Developer and HCISD designate and appoint Escrow Agent to serve as escrow agent under this Agreement. Escrow Agent accepts such appointment and agrees to perform its duties in accordance with the terms and conditions of this Agreement.

1.3 Delivery of Funds. Concurrently with the execution of this Agreement, HCISD shall deposit with Escrow Agent the sum of \$66,658.87 and Developer shall deposit with Escrow Agent the sum of \$66,658.88 (collectively, the “**Funds**”).

1.4 Funds in Escrow Account. Except as specifically provided in this Agreement, Escrow Agent shall have no responsibility or obligation of any kind in connection with the Funds, and shall not be required to deliver the same or any part thereof or take any action with respect to any matters that might arise in connection therewith, other than to receive, hold and deliver the Funds as herein provided. Escrow Agent shall invest the Funds in an interest-bearing account with a federally insured financial institution (the “**Escrow Account**”), which account shall allow withdrawals on no more than 2 business days’ notice. The tax liability for all interest earned on the Funds will be allocated to HCISD, and Escrow Agent shall instruct the financial institution holding the Funds to submit any Form 1099 or other similar report to the IRS with respect to such accrued interest in the name of HCISD. Escrow Agent shall not be liable for any error of judgment, or for any act done or steps taken or made by it in good faith, or for any mistake of fact or law, or for anything which it may do or refrain from doing in connection herewith, except its own gross negligence, willful misconduct, or its own breach of this Agreement.

Article 2 **Construction of Facilities; Use of Funds**

2.1 Construction of Facilities. Developer will design, permit, and construct, or cause to be designed, permitted, and constructed, the Facilities pursuant to the Development Agreement. All Funds will be held and applied to pay (or reimburse Developer for) the costs of designing, permitting, and constructing the Facilities.

2.2 Use of Funds. At any time and from time to time during the term of this Agreement, Developer may submit draw requests to Escrow Agent (with a copy to HCISD) prepared by an engineer or architect (as applicable, the “**Design Professional**”) or a contractor (a “**Contractor**”) retained by Developer for the design or construction of the Facilities, along with supporting documentation (each, a “**Draw Request**”). Each Draw Request will specify the total amount of the Costs of Construction for which payment is requested. HCISD will have a period of 5 business days after the date of Developer’s submission of a Draw Request to Escrow Agent (“**5-day Period**”) to dispute the Draw Request by written notice to Developer and Escrow Agent within such 5-day Period, which notice must identify with specificity the basis of the dispute. If HCISD does not timely dispute a Draw Request in accordance with the foregoing sentence, but subject to there being sufficient funds in the Escrow Account to pay the Draw Request, Escrow Agent will release the amounts requested in the Draw Request to Developer from the Funds within 10 days after the date on which such Draw Request is submitted to Escrow Agent and HCISD (“**10-day Period**”). If HCISD timely disputes the Draw Request in accordance with the foregoing, HCISD and Developer will make a good faith effort to resolve the dispute within the 10-day Period. A disputed Draw Request will be paid by Escrow Agent within 5 days after Developer and HCISD notify Escrow Agent in writing that a dispute has been resolved. If the funds described in a Draw Request have been paid by Developer pending the resolution of such dispute, then amount requested in the Draw Request will be paid by Escrow Agent to Developer in accordance with written notice of Developer and HCISD notifying Escrow Agent of the resolution of the dispute.

In the event the Funds are estimated to be insufficient to pay all of the Costs of Construction, as evidenced by supporting documentation by the Design Professional or Contractor, then HCISD and Developer shall each deliver fifty percent (50%) of the amount of such estimated deficiency to Escrow Agent within ten (10) business days following a receipt of written notice from Developer or Escrow Agent, along with supporting documentation.

Within 5 days after Developer achieves substantial completion of the Facilities (“**Substantial Completion**”) and delivers written notice of Substantial Completion to Escrow Agent and HCISD (together with a certification of Substantial Completion executed by the applicable Design Professionals), Escrow Agent shall disburse fifty percent (50%) of all remaining Funds to Developer and fifty percent (50%) of all remaining Funds to HCISD, and this Agreement will terminate.

The existence of an unresolved dispute concerning a Draw Request shall not prevent: (i) Developer from submitting subsequent Draw Requests pursuant to the terms hereof before the resolution of such dispute, or (ii) disbursement of Funds by Escrow Agent for the amounts of Draw Requests that are not in dispute. Further, the terms of this Agreement shall not be construed to prevent Developer from paying all or a portion of the Facilities using Developer’s own funds, and not the Funds, and any such use by Developer of Developer’s own funds will not waive Developer’s rights under this Agreement. In any such case, Developer may submit to Escrow Agent and HCISD periodic or final Draw Requests accompanied by reasonable evidence of prior payment of the applicable portion of the Costs of Construction.

Article 3 **Protection of Escrow Agent**

3.1 Reliance by Escrow Agent. Escrow Agent shall not be charged with notice or knowledge of any fact or information not herein set out. Escrow Agent shall be entitled to rely completely on any statements, letters, certificates or other written communications received from Developer or HCISD without having to investigate the accuracy or truth of any information set forth in any such communication. It shall be sufficient if any such statement, letter, certificate or other written communication is delivered to Escrow Agent and purports on its face to be correct in form and signed or otherwise executed by the party or parties required to sign or execute the same under this Agreement. Escrow Agent shall not be required in any way to determine the identity or authority of any person executing the same or the genuineness of any such signature.

3.2 Disputes. In the event of any disagreement among Developer, HCISD, Escrow Agent and any other person, or between any of them, resulting in adverse claims or demands being made upon the Funds or Escrow Agent, then Escrow Agent may, in its discretion, either: (i) withhold delivery of the Funds until the controversy is resolved, the conflicting demands are withdrawn, or its doubt is resolved, or (ii) file an interpleader for the purpose of having the respective rights of the claimants adjudicated and may deposit the Funds with the applicable court. Additionally, if any part of the Funds is at any time attached, garnished or levied upon under any court order or in case the payment, assignment, transfer, conveyance or delivery of any part of the Funds shall be stayed or enjoined by any court order, or in case any order, judgment or decree shall be made or entered by any court affecting the Funds or any part thereof,

then and in any of such events, Escrow Agent is authorized, in its sole discretion, to rely upon and comply with any such order, writ, judgment or decree which it is advised by legal counsel of its own choosing is binding upon it under the terms of this Agreement or otherwise; and if Escrow Agent complies with any such order, writ, judgment or decree it shall not be liable to any of the parties hereto or to any other person, firm or entity by reason of such compliance even though such order, writ, judgment or decree may be subsequently reversed, modified, annulled, set aside or vacated.

3.3 Indemnity of Escrow Agent. Developer and HCISD jointly and severally agree, to the extent permitted by law, to indemnify and hold Escrow Agent harmless from any and all losses, costs, damages, expenses, claims and attorney's fees, including but not limited to costs of investigation, suffered or incurred by Escrow Agent in connection with or arising from or out of its obligations as Escrow Agent under the Agreement, including all counsel fees incurred by Escrow Agent, except if due to the willful misconduct or gross negligence of Escrow Agent. Notwithstanding that this indemnity is joint and several, if Escrow Agent's loss results from a dispute between Developer and HCISD, then, to the extent permitted by law, the party who is the prevailing party in that dispute shall be entitled to recover court costs and reasonable attorney's fees from the non-prevailing party.

3.4 Escrow Agent May Consult with Counsel. Escrow Agent may consult with its counsel or other counsel satisfactory to it concerning any question relating to its duties or responsibilities hereunder or otherwise in connection herewith and shall not be liable for any action taken, suffered or omitted by Escrow Agent in good faith upon the advice of such counsel. Escrow Agent may act through its officers, employees, agents and attorneys.

Article 4 **Miscellaneous**

4.1 Resignation of Escrow Agent. Escrow Agent may resign upon 30 days' prior written notice to Developer and HCISD, and upon joint instructions of Developer and HCISD, shall deliver the Funds to a designated substitute Escrow Agent unanimously selected by Developer and HCISD. If Developer and HCISD do not unanimously designate a substitute Escrow Agent within 45 days after the giving of such notice, Escrow Agent may institute a bill of interpleader.

4.2 Successors and Assigns. The rights and obligations of Developer and HCISD may not be assigned by either without the prior written consent of the other. Escrow Agent's consent to any such assignment of the rights and obligations of Developer and HCISD is not required (but Escrow Agent may resign upon an assignment in accordance with the terms hereof).

4.3 Rights and Remedies. The rights and remedies of the parties are cumulative and not exhaustive of any rights or remedies to which they would otherwise be entitled.

4.4 Notices. Requirements for notices under this Agreement will be met when a notice has been reduced to writing and (i) personally delivered, (ii) delivered by reputable commercial overnight delivery service, (iii) delivered by email transmission with evidence of transmission, if confirmed by delivery, mail or overnight delivery service as described in subsections (i), (ii) or (iv), or (iv) sent certified United States mail, postage prepaid, return receipt requested to the below parties at the following addresses:

If to Developer: Clayton Properties Group, Inc., dba Brohn Homes
Attn: Adam B. Boenig
6720 Vaught Ranch Road, Suite 200
Austin, Texas 78730
Email: adamb@brohnhomes.com

With copy to: Armbrust & Brown, PLLC
100 Congress Avenue, Suite 1300
Austin, Texas 78701
Attn: Kevin M. Flahive
Email: kflahive@abaustin.com

If to HCISD: Hays Consolidated Independent School District

Attention: Max Cleaver
E-mail: _____

With copy to: Rogers, Morris & Grover, LLP
5718 Westheimer Rd., Suite 1200
Houston, Texas 77057
Attention: Mariana Evans
E-mail: mevans@rmgllp.com

If to Escrow Agent: Independence Title Company
Attn: Gay Heavilin
5900 Shepherd Mountain Cove, Building 2, Ste. 200
Austin, Texas 78730
E-mail: gheavilin@independencetitle.com

The date of receipt shall be the date of actual receipt of such notice if the notice is personally delivered, the date of delivery to a reputable commercial overnight delivery service with instructions for next business-day delivery, the date sent if sent by email transmission (provided that any email transmission sent on a non-business day or after 5:00 p.m. on a business day shall be deemed received on the next business day), or if sent by certified mail, the earlier of actual receipt or 3 days after the postmark date. Addresses given herein for notice may be changed by any party by notification in writing at least 10 days prior to the effective date thereof.

4.5 Invalid Provisions. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

4.6 Governing Law. This Agreement shall be deemed to be made under the laws of the State of Texas and shall for all purposes be construed and enforced in accordance with said laws except as federal law may apply. This Agreement is performable in Hays County, Texas.

4.7 Amendments. This Agreement may be amended or otherwise modified from time to time, but only by a writing signed and acknowledged by all of the parties.

4.8 Exhibits. Each reference herein to an exhibit refers to the applicable exhibit that is attached to this Agreement, which exhibit may be amended by the parties from time to time in accordance with the provisions of this Agreement. All such exhibits constitute a part of this Agreement and are expressly made a part hereof.

4.9 Waivers. A waiver by a party of any provision of this Agreement or of any default by any party must be in writing and no such waiver shall be implied from any omission by a party to take any action in respect of such default if such default continues or is repeated. No express written waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. One or more written waivers of any default in the performance of any term, provision, covenant or condition contained in this Agreement shall not be deemed to be a waiver of any subsequent default in the performance of the same term, provision, covenant or condition contained in this Agreement. The consent or approval by a party to or of any act or request by another party requiring consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar acts or requests. No failure by a party to insist upon or to enforce any provision of this Agreement shall constitute or be interpreted as a waiver thereof and no provision of this Agreement shall be interpreted as waived, modified or amended by the acts or conduct of the parties except as specifically expressed to be such in writing.

4.10 Exclusive Benefit of Parties. The provisions of this Agreement are for the exclusive benefit of Developer, HCISD and Escrow Agent and not for the benefit of any third person. No provision of this Agreement is intended to make any person a third-party beneficiary hereof. This Agreement shall not be deemed to have conferred any rights upon any third person.

(Signature Page Follows)

The parties hereto, by their representatives duly authorized, have executed this Agreement to be effective on the date shown on the first page of this Agreement.

HCISD:

HAYS CONSOLIDATED INDEPENDENT SCHOOL DISTRICT, an independent school district and political subdivision created under the laws of the State of Texas

By: _____
Name: _____
Title: _____

DEVELOPER:

CLAYTON PROPERTIES GROUP, INC., a Texas corporation doing business in Texas as BROHN HOMES

By: _____
Name: _____
Title: _____

ESCROW AGENT:

INDEPENDENCE TITLE COMPANY, a Texas corporation

By: _____
Name: _____
Title: _____